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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/816,919	03/23/2001	Yoshizou Honda	10830-059001	6094

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FISH & RICHARDSON P.C.
CITIGROUP CENTER 52ND FLOOR
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NEW YORK, NY 10022-4611

EXAMINER

SHANNON, MICHAEL R

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/816,919

Applicant(s)

HONDA, YOSHIZOU

Examiner

Michael R Shannon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 May 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. Figure 3 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Janko (USPN 6,075,561), cited by examiner.

Regarding claim 1, the claimed "moving image reception quality determination apparatus" is met as follows:

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- The claimed “moving image transmitter for transmitting a moving image” is met by the Compression Coder 12 and MUX 18, which serve to transmit moving image (frames) 10 [Fig. 1 & col. 2, lines 4-19].
- The claimed “first moving image receiver for receiving the moving image transmitted by said moving image transmitter through a network” is met by the DEMUX 22 and Compression Decoder 24, which serve to receive the video sequence once it has been transmitted over the network [Fig. 1 & col. 2, lines 20-29].
- The claimed “first moving image reception quality evaluator for evaluating reception quality of the moving image of said first moving image receiver” is met by the inherent teaching of an evaluator that can be used to determine the degradation results. The disclosed picture quality measurement device 28 must evaluate the input information (first and second moving images) in order to determine the difference in degradation between the two moving images and output the degradation results [col. 2, lines 29-36].
- The claimed “second moving image receiver for receiving the moving image transmitted by said moving image transmitter through said network” is met by the reference frame 14' and the inherent teaching that it is received at the receiving site after being transmitted from the transmitting device as ancillary data or through pipeline (different communication path) 16.

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- The claimed “second moving image reception quality evaluator for evaluating reception quality of the moving image of said second moving image receiver” is met by the inherent teaching of an evaluator that can be used to determine the degradation results. The disclosed picture quality measurement device 28 must evaluate the input information (first and second moving images) in order to determine the difference in degradation between the two moving images and output the degradation results [col. 2, lines 29-36].
- The claimed “determination machine for determining the reception quality of the moving image of said first moving image receiver based on comparison between a first evaluation value output by said first moving image reception quality evaluator and second evaluation value output by said second moving image reception quality evaluator” is met by the picture quality measurement device 28, which serves to compare the picture difference measures and output a degradation result of the first moving image with respect to the second moving image [col. 2, lines 29-36].

Regarding claim 2, the claimed “determination machine determining the reception quality based on a quality degradation index, a value of summing up differences between the first and second evaluation values over a specific time period” is met by the aforementioned picture quality measurement device 28, and its ability to compare the picture difference measures and output a degradation result of the first

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moving image with respect to the second moving image [col. 2, lines 29-36]. The fact that this can be done by summing up differences over a specific time period is met by the fact that a series of frames can be sent to the measurement device 28 in order to measure an average video quality for the received video sequence over time [col. 2, lines 50-54].

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Janko (USPN 6,075,561), cited by examiner, in view of Sako et al (USPN 6,738,752), cited by examiner, in further view of Gordon et al (USPN 6,208,335), cited by examiner. The Janko reference teaches all of that which is discussed above with regards to claim 1. The Janko reference, however, does not disclose that the service provider contracts with a user using the first moving image receiver to receive a moving image for returning a part of service charge to the user based on the first evaluation value, nor does it disclose that a quality provider for managing said first moving image reception quality evaluator, said second moving image reception quality evaluator, and said determination machine for the quality provider to pay an amount determined based on the reception quality determined by said determination machine to the service provider.

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The Gordon reference utilizes an OnSet Guarantee, which enables the user to request a return of the service charge associated with a bad quality, moving image [Fig. 13]. It would have been obvious to one of ordinary skill in the art at the time of the invention to allow the user to contract with the service provider for returning a part of the service charge based on the quality of the video (which was previously taught by Janko to be established using the picture quality measurement device 28), in order to provide a system which judged the picture quality and allowed for dynamic billing based on the degradation value (quality) of the picture, without the need for user interaction.

Furthermore, Sako teaches a system, which utilizes a third party, the distributing service dealer 4 (quality provider) that can pay the contents provider for contents based on use and quality transmitted to the user. Column 6, line 60 – column 7, line 2 disclose that the contents provider 35 receives an amount of money from the distributing service dealer based on the sale/viewing of the content and on the quality of the delivered content. It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize a quality provider that could determine the amount to pay the service provider based on the quality of the delivered content, in order to provide a third party and a moderator/arbitrator that would be able to fairly and easily distribute and bill for content based on quality.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Banning (USPN 3,478,162) discloses a system for dual quality subscription television, wherein a user can preview a free lesser-quality video signal before actually purchasing a high-quality video signal.

Nagashima et al (USPN 6,275,988) disclose an accounting system that performs distribution and billing functions in response to a user selected image resolution.

Maycock et al (USPN 5,808,671) disclose an apparatus for monitoring the quality and degradation of a video signal at a third party.

Wolf et al (USPN 5,446,492) disclose a system for objectively measuring the image quality of a destination video signal.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael R. Shannon whose telephone number is (571) 272-7356. The examiner can normally be reached Monday through Friday 8:00 AM – 5:00PM, with alternate Friday's off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at (571) 272-7353.

Any response to this action should be mailed to:

Please address mail to be delivered by the United States Postal Service (USPS) as follows:

Mail Stop _____
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Effective January 14, 2005, except correspondence for Maintenance Fee payments, Deposit Account Replenishments (see 1.25(c)(4)), and Licensing and Review (see 37 CFR 5.1(c) and 5.2(c)), please address correspondence to be delivered by other delivery services (Federal Express (Fed Ex), UPS, DHL, Laser, Action, Purolater, etc.) as follows:

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Alexandria, VA 22314

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Or faxed to: (703) 872-9306

Hand-delivered responses should be brought to:

Knox Building
501 Dulany Street
Alexandria, VA 22314

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to customer service whose telephone number is **(571) 272-2600**.

Michael R Shannon
Examiner
Art Unit 2614

Michael R Shannon
March 11, 2005


JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600